

FIRST REGULAR SESSION

# HOUSE BILL NO. 977

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LADD BAKER.

Read 1<sup>st</sup> time March 14, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2217L.011

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### AN ACT

To repeal section 547.030, RSMo 2000, and to enact in lieu thereof two new sections relating to forensic DNA testing and evidence.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 547.030, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 547.030 and 547.035, to read as follows:

547.030. The motion for a new trial shall be in writing and must set forth in detail and with particularity, in separate numbered paragraphs, the specific grounds or causes therefor. [Such] **When the sole ground or cause in the motion for a new trial is that there is newly discovered forensic DNA evidence which supports the defendant's assertion of actual innocence, the motion may be filed at any time after the verdict. In all other cases the** motion shall be filed before judgment and within four days after the return of the verdict; provided, on application of defendant, the court may extend the time for filing such motion for a period of thirty days; provided further, the court shall have no power to make another or further extension of the time for filing said motion.

**547.035. 1. A defendant convicted in a Missouri circuit court of a felony offense may, at any time after the verdict, make a motion before the trial court that entered the judgment of conviction in the defendant's case, for the performance of forensic DNA testing on biological evidence that was secured in relation to the trial which resulted in the defendant's conviction, but which was not subject to the forensic DNA testing which is now requested.**

**2. The defendant must present a prima facie case that:**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

8           **(1) Identity was the issue in the trial which resulted in the defendant's conviction;**  
9   **and**

10           **(2) The evidence to be tested has been subject to a chain of custody sufficient to**  
11 **establish that it has not been substituted, tampered with, replaced or altered in any**  
12 **material aspect.**

13           **3. The trial court shall allow the testing under reasonable conditions designed to**  
14 **protect the state's interests in the integrity of the evidence and the testing process upon a**  
15 **determination that:**

16           **(1) The result of the testing has the scientific potential to produce new,**  
17 **noncumulative evidence materially relevant to the defendant's assertion of actual**  
18 **innocence; and**

19           **(2) The testing requested employs a scientific method generally accepted within the**  
20 **relevant scientific community.**